

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this Response to Restriction Requirement was transmitted via facsimile transmission to the Assistant Commissioner for Patents, via facsimile number (703) 872-9306, on this 11<sup>th</sup> day of April, 2003

*Louise A. Foutch*  
Louise A. Foutch  
4/11/03  
Date

Attorney Docket No. 1310

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Duvick, et al.	Date:	April 11, 2003
Serial No.:	10/047,825	Group Art Unit:	1638
Filed:	January 16, 2002	Examiner:	Ibrahim, Medina A.
For:	MAIZE PEROXIDASE GENES AND THEIR USE FOR IMPROVING PLANT DISEASE RESISTANCE AND STALK STRENGTH		

Assistant Commissioner for Patents  
Washington, D.C. 20231

**RESPONSE TO RESTRICTION REQUIREMENT**

This is in response to the Office Action mailed March 12, 2003, in which the Examiner has required restriction to one of the following inventions:

- I. Claim 1, drawn to isolated polypeptides having specified sequences, classified in class 530, subclass 372.

Serial No.: 10/047,825  
Group Art Unit: 1638

- II. Claims 2-5, drawn to isolated nucleotide sequences having specified sequences, an expression vector and a host cell transformed with said nucleotide sequences, classified in class 435, subclass 69.1.
- III. Claims 6-31, drawn to a method for enhancing the defense response of a transgenic plant, plant cells and plants, classified in class 800, subclass 279.
- IV. Claims 32-38, drawn to a method for enhancing stalk strength of a transgenic plant, classified in class 800, subclass 290.
- V. Claim 39, drawn to a method for preventing oxidative damage of a transgenic plant, classified in class 800, subclass 278.
- VI. Claims 40-41, drawn to a method for breeding pathogen resistance into a plant, classified in class 800, subclass 260.
- VII. Claims 42-43, drawn to a method for detecting expression of a nucleic acid in a plant, classified in class 435, subclass 6.

Furthermore, the Examiner has required an election of a single polynucleotide and its corresponding polypeptide.

Applicants hereby provisionally elect without traverse to prosecute the claims of Group II, claims 2-5, drawn to isolated nucleotide sequences having specified sequences, an expression vector and a host cell transformed with said nucleotide sequences, classified in class 435, subclass 69.1, and expressly reserve the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims. Furthermore Applicants hereby provisionally elect without traverse to prosecute invention (B), which corresponds to SEQ ID NO: 3 or a nucleotide sequence encoding SEQ ID NO: 4 and expressly reserve the right to file divisional

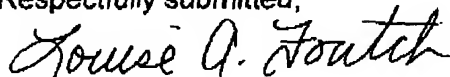
Serial No.: 10/047,825  
Group Art Unit: 1638

applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining sequences.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned attorney so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required beyond those, which may be otherwise provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore is hereby authorized to be charged to Deposit Account No. 16-1852.

Respectfully submitted,



Louise A. Foutch  
Registration No. 37,133

PIONEER HI-BRED INTERNATIONAL, INC.  
Corporate Intellectual Property  
7100 N.W. 62<sup>nd</sup> Avenue  
P.O. Box 1000  
Johnston, Iowa 50131-1000  
Phone: (515) 248-4835  
Facsimile: (515) 334-6883

**PIONEER HI-BRED INTERNATIONAL, INC.  
CORPORATE INTELLECTUAL PROPERTY DEPARTMENT**

**FAX TRANSMISSION**

-----  
7100 N.W. 62<sup>nd</sup> Avenue  
P.O. Box 1000  
Johnston, Iowa 50131-1000

Phone: (515) 248-4835  
Fax: (515) 334-6883

**FAX RECEIVED**

APR 12 2003

**GROUP 1600**

TO: Assistant Commissioner for Patents  
FROM: Louise Foutch  
RE: Serial No. 10/047,825 - Our Ref. No. 1310  
DATE: 04-11-03 FAX NUMBER: 703-872-9306

**OFFICIAL**

NUMBER OF PAGE(S) FOLLOWING THIS SHEET: 4

**COMMENTS:**

Attached please find the following documents;

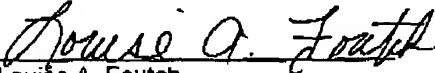
1. Transmittal of Response to Restriction Requirement
2. Response to Restriction Requirement

The contents of this facsimile are or may be attorney privileged and/or confidential and are intended only for the use of the recipient identified above. If the reader of this message is not the identified recipient, or the employee or agent responsible for delivering it to the identified recipient, you are hereby notified that any dissemination or use of this communication is unlawful and strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone and return the original message to the sender at the above address via the U.S. Postal Service. Anyone so cooperating will be reimbursed for the reasonable expense incurred.

If there is a problem with transmission or illegible pages, please contact the sender or (515) 334-6845.

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Transmittal of Response to Restriction Requirement was transmitted via facsimile transmission to the Assistant Commissioner for Patents, via facsimile number (703) 872-9306, on this 11<sup>th</sup> day of April, 2003

  
Louise A. Foutch

4/11/03  
Date

Docket No. 1310

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Duvick, et al.

Date: April 11, 2003

Serial No.: 10/047,825

Group Art Unit: 1638

Filed: January 16, 2002

Examiner: Ibrahim, Medina A.

For: MAIZE PEROXIDASE GENES AND THEIR USE FOR IMPROVING  
PLANT DISEASE RESISTANCE AND STALK STRENGTH

Assistant Commissioner for Patents  
Washington, D.C. 20231

TRANSMITTAL OF RESPONSE TO RESTRICTION REQUIREMENT

Attached hereto is a Response to Restriction Requirement in the above-identified application. No fee is required for this response.

The Commissioner is hereby authorized to charge any patent application processing fees associated with this response, or to credit any overpayment, to Deposit Account 16-1852. A duplicate copy of this sheet is enclosed.

Respectfully submitted,



Louise A. Foutch  
Registration No. 37,133

PIONEER HI-BRED INTERNATIONAL, INC.  
Corporate Intellectual Property  
7100 N.W. 62<sup>nd</sup> Avenue  
P.O. Box 1000  
Johnston, Iowa 50131-1000  
Phone: (515) 248-4835  
Facsimile: (515) 334-6883